

1-1 By: Hinojosa S.B. No. 66
 1-2 (In the Senate - Filed November 10, 2014; January 26, 2015,
 1-3 read first time and referred to Committee on Education;
 1-4 April 13, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 2; April 13, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor of Galveston	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Campbell	X			
1-12 Garcia	X			
1-13 Huffines		X		
1-14 Kolkhorst		X		
1-15 Rodríguez	X			
1-16 Seliger	X			
1-17 Taylor of Collin	X			
1-18 West	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 66 By: Garcia

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the use of epinephrine auto-injectors on public school
 1-24 and open-enrollment charter school campuses and at or in transit to
 1-25 or from off-campus school events.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. This Act shall be known as the Cameron Espinosa
 1-28 Act.

1-29 SECTION 2. Chapter 38, Education Code, is amended by adding
 1-30 Subchapter E to read as follows:

1-31 SUBCHAPTER E. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
 1-32 AUTO-INJECTORS

1-33 Sec. 38.201. DEFINITIONS. In this subchapter:

1-34 (1) "Advisory committee" means the committee
 1-35 established under Section 38.202.

1-36 (2) "Anaphylaxis" means a sudden, severe, and
 1-37 potentially life-threatening allergic reaction that occurs when a
 1-38 person is exposed to an allergen.

1-39 (3) "Epinephrine auto-injector" means a disposable
 1-40 medical drug delivery device that contains a premeasured single
 1-41 dose of epinephrine that is intended to be used to treat
 1-42 anaphylaxis.

1-43 (4) "Physician" means a person who holds a license to
 1-44 practice medicine in this state.

1-45 Sec. 38.202. ADVISORY COMMITTEE: ESTABLISHMENT AND
 1-46 COMPOSITION. (a) The commissioner of state health services shall
 1-47 establish an advisory committee to examine and review:

1-48 (1) the administration of epinephrine auto-injectors
 1-49 on a person experiencing an anaphylactic reaction on a campus of a
 1-50 school district or an open-enrollment charter school or at or in
 1-51 transit to or from an off-campus school event; and

1-52 (2) the maintenance and disposal of epinephrine
 1-53 auto-injectors by a school district or an open-enrollment charter
 1-54 school.

1-55 (b) The advisory committee shall be composed of members
 1-56 appointed by the commissioner of state health services. In making
 1-57 appointments, the commissioner shall ensure that:

1-58 (1) a majority of the members are physicians with
 1-59 expertise in treating anaphylaxis, including physicians who
 1-60 specialize in the fields of pediatrics, allergies, asthma, and

2-1 immunology; and
2-2 (2) at least one member is a registered nurse employed
2-3 by a school district or open-enrollment charter school as a school
2-4 nurse.
2-5 (c) A member of the advisory committee serves at the
2-6 pleasure of the commissioner of state health services.
2-7 (d) A vacancy on the advisory committee is filled by the
2-8 commissioner of state health services in the same manner as other
2-9 appointments to the advisory committee.
2-10 Sec. 38.203. ADVISORY COMMITTEE: PRESIDING OFFICER. The
2-11 advisory committee shall elect a presiding officer.
2-12 Sec. 38.204. ADVISORY COMMITTEE: COMPENSATION AND
2-13 EXPENSES. Members of the advisory committee serve without
2-14 compensation but are entitled to reimbursement for travel expenses.
2-15 Sec. 38.205. ADVISORY COMMITTEE: APPLICABILITY OF OTHER
2-16 LAW. Chapter 2110, Government Code, does not apply to the advisory
2-17 committee.
2-18 Sec. 38.206. ADVISORY COMMITTEE: OPEN MEETINGS. Meetings
2-19 of the advisory committee are subject to Chapter 551, Government
2-20 Code.
2-21 Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory
2-22 committee shall advise the commissioner of state health services
2-23 on:
2-24 (1) the storage of epinephrine auto-injectors on
2-25 school campuses;
2-26 (2) the maintenance of epinephrine auto-injectors
2-27 while in transit to or from an off-campus school event;
2-28 (3) the training of school personnel in the
2-29 administration of an epinephrine auto-injector; and
2-30 (4) a plan for one or more school personnel members
2-31 trained in the administration of an epinephrine auto-injector to be
2-32 on each school campus.
2-33 Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
2-34 AUTO-INJECTORS. (a) Each school district and open-enrollment
2-35 charter school shall adopt and implement a policy requiring the
2-36 maintenance, administration, and disposal of epinephrine
2-37 auto-injectors at each campus in the district or school.
2-38 (b) The policy adopted under Subsection (a) must provide
2-39 that school personnel who are authorized and trained may administer
2-40 an epinephrine auto-injector to a person who is reasonably believed
2-41 to be experiencing anaphylaxis on a school campus or at an
2-42 off-campus school event.
2-43 (c) The commissioner of state health services, in
2-44 consultation with the commissioner of education, and with advice
2-45 from the advisory committee, shall adopt rules regarding the
2-46 maintenance, administration, and disposal of an epinephrine
2-47 auto-injector at a school campus or while students are at an
2-48 off-campus school event or in transit to or from an off-campus
2-49 school event. The rules must establish:
2-50 (1) the number of epinephrine auto-injectors
2-51 available:
2-52 (A) at each campus; and
2-53 (B) while students are at an off-campus school
2-54 event or in transit to or from an off-campus school event;
2-55 (2) the process for each school district and
2-56 open-enrollment charter school to check the inventory of
2-57 epinephrine auto-injectors at regular intervals for expiration and
2-58 replacement; and
2-59 (3) the amount of training required for school
2-60 personnel to administer an epinephrine auto-injector.
2-61 (d) Each school district and open-enrollment charter school
2-62 must have a plan requiring that each campus have one or more school
2-63 personnel members authorized and trained to administer an
2-64 epinephrine auto-injector present during all hours the campus is
2-65 open.
2-66 (e) The supply of epinephrine auto-injectors must:
2-67 (1) be stored in a secure location on campus and
2-68 securely maintained while at an off-campus school event or in
2-69 transit to or from an off-campus school event; and

3-1 (2) be easily accessible to school personnel
3-2 authorized and trained to administer an epinephrine auto-injector.

3-3 Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE
3-4 AUTO-INJECTOR. (a) Not later than the 10th business day after the
3-5 date a school personnel member administers an epinephrine
3-6 auto-injector, the school shall report the information required
3-7 under Subsection (b) to:

3-8 (1) the school district or the charter holder if the
3-9 school is an open-enrollment charter school;

3-10 (2) the physician who prescribed the epinephrine
3-11 auto-injector;

3-12 (3) the commissioner of education; and

3-13 (4) the commissioner of state health services.

3-14 (b) The report required under this section must include the
3-15 following information:

3-16 (1) the age of the person who received the
3-17 administration of the epinephrine auto-injector;

3-18 (2) whether the person who received the administration
3-19 of the epinephrine auto-injector was a student, a school personnel
3-20 member, or a visitor;

3-21 (3) the physical location where the epinephrine
3-22 auto-injector was administered;

3-23 (4) the number of doses of epinephrine auto-injector
3-24 administered;

3-25 (5) the title of the person who administered the
3-26 epinephrine auto-injector; and

3-27 (6) any other information required by the commissioner
3-28 of education.

3-29 Sec. 38.210. TRAINING. (a) Each school district and
3-30 open-enrollment charter school is responsible for training school
3-31 personnel in the administration of an epinephrine auto-injector.

3-32 (b) Training required under this section must:

3-33 (1) include information on:

3-34 (A) recognizing the signs and symptoms of
3-35 anaphylaxis;

3-36 (B) administering an epinephrine auto-injector;

3-37 (C) implementing emergency procedures, if
3-38 necessary, after administering an epinephrine auto-injector; and

3-39 (D) properly disposing of used or expired
3-40 epinephrine auto-injectors; and

3-41 (2) be provided in a formal training session or
3-42 through online education and be completed annually.

3-43 (c) Each school district and open-enrollment charter school
3-44 shall maintain records on the training required under this section.

3-45 (d) School personnel who have received training under this
3-46 section, in accordance with the provisions of this subchapter, may:

3-47 (1) take an epinephrine auto-injector from a location
3-48 described by Section 38.208(e)(1); and

3-49 (2) administer the epinephrine auto-injector.

3-50 Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS.

3-51 (a) A physician may prescribe epinephrine auto-injectors in the
3-52 name of a school district or open-enrollment charter school.

3-53 (b) The physician shall provide the school district or
3-54 open-enrollment charter school with a standing order for the
3-55 administration of an epinephrine auto-injector to a person
3-56 reasonably believed to be experiencing anaphylaxis.

3-57 (c) The standing order under Subsection (b) is not required
3-58 to be patient-specific, and the epinephrine auto-injector may be
3-59 administered to a person without a previously established
3-60 physician-patient relationship.

3-61 (d) Notwithstanding any other provisions of law,
3-62 supervision or delegation by a physician is considered adequate if
3-63 the physician:

3-64 (1) periodically reviews the order; and

3-65 (2) is available through direct telecommunication as
3-66 needed for consultation, assistance, and direction.

3-67 (e) An order issued under this section must contain:

3-68 (1) the name and signature of the prescribing
3-69 physician;

4-1 (2) the name of the school district or open-enrollment
4-2 charter school to which the order is issued;

4-3 (3) the quantity of epinephrine auto-injectors to be
4-4 obtained and maintained under the order; and

4-5 (4) the date of issue.

4-6 (f) A pharmacist may dispense an epinephrine auto-injector
4-7 to a school district or open-enrollment charter school without
4-8 requiring the name or any other identifying information relating to
4-9 the user.

4-10 Sec. 38.212. FUNDING. (a) A school district or
4-11 open-enrollment charter school is required to comply with this
4-12 subchapter only if sufficient funds are available.

4-13 (b) A school district or open-enrollment charter school may
4-14 accept gifts, grants, donations, and federal and local funds to
4-15 implement this subchapter.

4-16 Sec. 38.213. UNANTICIPATED LOSS OF EPINEPHRINE
4-17 AUTO-INJECTORS. If a school district or open-enrollment charter
4-18 school cannot maintain an inventory of epinephrine auto-injectors
4-19 because of a manufacturer's recall or any other unanticipated loss
4-20 or reduction, the district or school is not required to comply with
4-21 this subchapter.

4-22 Sec. 38.214. RULES. Except as otherwise provided by this
4-23 subchapter, the commissioner of education and the commissioner of
4-24 state health services shall jointly adopt rules necessary to
4-25 implement this subchapter.

4-26 Sec. 38.215. IMMUNITY FROM LIABILITY. (a) A person who in
4-27 good faith takes, or fails to take, any action under this subchapter
4-28 is immune from civil or criminal liability or disciplinary action
4-29 resulting from that action or failure to act, including:

4-30 (1) issuing an order for epinephrine auto-injectors;

4-31 (2) supervising or delegating the administration of an
4-32 epinephrine auto-injector;

4-33 (3) possessing, maintaining, or disposing of an
4-34 epinephrine auto-injector;

4-35 (4) prescribing an epinephrine auto-injector;

4-36 (5) dispensing an epinephrine auto-injector;

4-37 (6) administering, or assisting in administering, an
4-38 epinephrine auto-injector;

4-39 (7) providing, or assisting in providing, training,
4-40 consultation, or advice in the development, adoption, or
4-41 implementation of policies, guidelines, rules, or plans; or

4-42 (8) undertaking any other act permitted or required
4-43 under this subchapter.

4-44 (b) The immunities and protections provided by this
4-45 subchapter are in addition to other immunity or limitations of
4-46 liability provided by law.

4-47 (c) Notwithstanding any other law, this subchapter does not
4-48 create a civil, criminal, or administrative cause of action or
4-49 liability or create a standard of care, obligation, or duty that
4-50 provides a basis for a cause of action or liability.

4-51 (d) A cause of action does not arise from an act or omission
4-52 described by this section.

4-53 (e) The immunities and protections provided by this
4-54 subchapter shall continue in full force and effect, regardless of
4-55 whether a school district or open-enrollment charter school is
4-56 excused under Section 38.212 or 38.213 from complying with this
4-57 subchapter.

4-58 SECTION 3. Section 38.0151, Education Code, is amended by
4-59 adding Subsection (f) to read as follows:

4-60 (f) A school district or open-enrollment charter school
4-61 that provides for the maintenance, administration, and disposal of
4-62 epinephrine auto-injectors under Subchapter E is not required to
4-63 comply with this section.

4-64 SECTION 4. This Act applies beginning with the 2015-2016
4-65 school year.

4-66 SECTION 5. This Act takes effect immediately if it receives
4-67 a vote of two-thirds of all the members elected to each house, as
4-68 provided by Section 39, Article III, Texas Constitution. If this
4-69 Act does not receive the vote necessary for immediate effect, this

5-1 Act takes effect September 1, 2015.

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